



FEDERAL COMMUNICATIONS COMMISSION
Consumer & Governmental Affairs Bureau
Consumer Inquiries and Complaints Division
445 12th Street, S.W., Room 5-A729
Washington, D.C. 20554

02-2781

OCT 28 2003

In Reply Refer To
03-I0057101/aw

Mr Terry Paul
All Points Ornamental Railing & Welding Inc.
36300 Lakeland Boulevard
Eastlake, OH 44095

Dear Mr Paul:

Thank you for bringing your concerns to the attention of Chairman Michael Powell at the Federal Communications Commission (Commission or FCC). Your letter regarding the FCC's recent amendment to the rules implementing the Telephone Consumer Protection Act of 1991 (TCPA) has been forwarded to the Consumer & Governmental Affairs Bureau for our review.

On September 18, 2002, the Commission released a Notice of Proposed Rulemaking (NPRM) in CG Docket No. 02-278, seeking comment on whether it should change its rules that restrict telemarketing calls and unsolicited fax advertisements, and if so, how. The NPRM sought comment on the option to establish a national do-not-call list, and how such action might be taken in conjunction with the national do-not-call registry rules adopted by the Federal Trade Commission (FTC) and the numerous state do-not-call lists. In addition, the Commission sought comment on the effectiveness of the TCPA's unsolicited facsimile advertisement rules, including the Commission's determination that a prior business relationship between a fax sender and recipient establishes the requisite consent to receive advertisements via fax. The Commission received over 6,000 comments from individuals, businesses, and state governments on the TCPA rules.

The record in this proceeding, along with our own enforcement experience, demonstrated that changes in the current rules are warranted, if consumers and businesses are to continue to receive the privacy protections contemplated by the TCPA. As explained in the Commission's Report and Order released on July 3, 2003, the record indicated that many consumers and businesses receive faxes they believe they have neither solicited nor given their permission to receive. Consumers emphasized that the burden of receiving hundreds of unsolicited faxes was not just limited to the cost of paper and toner, but includes the time spent reading and disposing of faxes, the time the machine is printing an advertisement and is not operational for other purposes, and the intrusiveness of faxes transmitted at inconvenient times, including in the middle of the night.

As we explained in the Report and Order, the legislative history of the TCPA indicates that one of Congress' primary concerns was to protect the public from bearing the costs of unwanted advertising. Therefore, Congress determined that companies that wish to fax unsolicited advertisements to customers must obtain their express permission to do so before transmitting any faxes to them. The amended rules require all entities that wish to transmit advertisements to a facsimile machine to obtain permission from the recipient in writing.

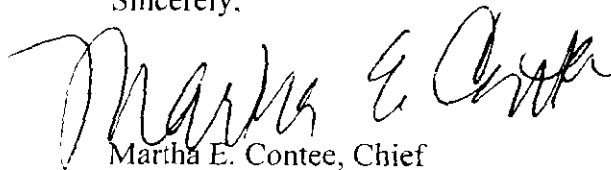
The Commission's amended facsimile advertising rules were initially scheduled to go into effect on August 25, 2003. However, based on additional comments received since the adoption of the July Report and Order, the Commission, on its own motion, determined to delay the effective date of some of the amended facsimile rules, including the elimination of the established business relationship exemption, until January 1, 2005. The comments filed after the release of the Report and Order indicate that many organizations may need additional time to secure this written permission from individuals and businesses to which they fax advertisements. Enclosed is a copy of the Commission's Order on Reconsideration, released on August 18, 2003.

The Commission has available an e-mail service designed to apprise consumers about developments at the Commission, to disseminate consumer information materials prepared by the Commission to a wide audience and to invite comments from other parties on Commission regulatory proposals. This free service enables consumers to subscribe and receive FCC fact sheets, consumer brochures and alerts, and public notices, among other consumer information. To subscribe, an individual would send an e-mail to subscribe@info.fcc.gov and in either the subject line or body of the message put "subscribe fcc-consumer-info first name last name" (substitute their first and last name, for example, "subscribe fcc-consumer-info John Doe").

Information on telecommunications-related issues can also be accessed via the Internet from the Commission's Home Page located at <http://www.fcc.gov> and the Consumer & Governmental Affairs Bureau's web site at <http://www.fcc.gov/cgb> or by calling 1-888-CALL-FCC. TTY users may call 1-888-TELL-FCC.

We appreciate your comments. We have placed a copy of your correspondence in the public record for this proceeding. Please do not hesitate to contact us if you have further questions.

Sincerely,



Martha E. Contee, Chief
Consumer Inquiries and Complaints Division
Consumer & Governmental Affairs Bureau

Enclosures

ALLPOINTS ORNAMENTAL RAILING & WELDING INC.

36300 LAKELAND BLVD
EAST LAKE, OHIO 44095
Phone 440-918-0690
Fax 440-918-0695

August 22, 2003

Michael Powell
Federal Communications Commission
Consumer Inquires and Complaints Division
445 12th Street, SW
Washington, DC 20554

SEP 09 2003
Distribution Center

Dear Mr. Powell:

I am writing to voice my opposition to the FCC's decision to issue a stay on its ruling regarding new rules for faxing to members until January 1, 2005. This stay order was issued on August 18, 2003. I am the owner of ALLPOINTS ORNAMENTAL RAILING & WELDING INC. For the past five years our company has been inundated (overwhelmed) with unsolicited facsimiles.

These advertisement facsimiles cost me my paper and toner. They also tie my fax machine, which I need for my small business to send and receive proposal. I disagree with any "established business relationship". I do not understand how by my purchase of any good or service it provides the advertisers with the automatic right (or the right) to steal my paper and toner to print up their personal advertisements.

I respectfully request that the FCC reconsider its decision to stay the rules until January 1st 2005.

Sincerely,

Terry Paul
President

